UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,604	01/25/2001	Stephen M. Howard	EMC-002PUS	4397

			EXAMINER
51576	7590	12/29/2005	OSMAN, RAMY M

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2157	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 September 2005</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15 and 17-20</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-15 and 17-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   This communication is in response to amendments filed on September 26, 2005. Claims

1-15,17-20 are pending.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-15,17-20 have been considered but are not

persuasive.

3.   Applicant argues that Hanes does not teach associating restorable objects with a

particular library, as cited on page 12 first paragraph of applicants specification.

        In reply, it is noted that the features upon which applicant relies (i.e., specification pg 12)

are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

        The claim is therefore broadly interpreted because the applicant has failed to detail the

features of the library. The word 'library' is a broad term and is broadly interpreted to mean

anything that contains a collection of data objects. Therefore, a compact disc containing data, or

a zip archive file can both be interpreted to be a library (i.e. something that contains a collection

of data objects).

4.   Applicant argues that Hanes is not a backup and storage system as understood in the art.

        In reply, Applicant fails to detail in the claim the architecture and elements of the

'backup and storage system', as disclosed in figure 3 for example. 'Backup and storage system'

is a broad limitation and is interpreted to mean anything that can be used to backup data and act

as a storage for data.

5.   Applicant argues and requests clarification in regards to support for the rejection of

claims 9-11.

In reply, Examiner directs the applicant to the interpretation of 'library' as explained

above. Examiner further directs the applicant to column 4 lines 23-67 where Hanes discloses

detecting new media (i.e. libraries).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.   **Claims 1-15,17-20 rejected under 35 U.S.C. 103(a) as being unpatentable by Hanes**

et al (US Patent No 6,466,952) in view of Rodriguez et al (US Patent No 6,427,149).

8.   In reference to claim 1, Hanes teaches a method of restoring backed up data, comprising:

retrieving, by a data backup and storage system, a list of objects that are restorable by a

client (column 4 lines 64-67 and column 6 lines 15-25);

displaying the list of restorable objects for browsing by a user (column 4 lines 64-67);

generating a list of restorable objects marked for restoration by the user, wherein each of

the restorable objects is associated with a particular library (column 6 lines 8-25 & 49-67);

submitting the list of marked restorable objects for restoration by the client (column 2 lines 37-50 and column 5 lines 10-30);

executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that multiple restore submissions can be made prior to restore execution (column 2 lines 37-50 and column 6 lines 5-20).

Hanes fails to explicitly teach the limitation of via a remote procedure call. However, Rodriguez teaches remote procedure calls wherein a client retrieves a list of archive objects from a server for multiple restore submissions of archive files (Abstract, column 3 lines 18-25, column 4 lines 24-40 & 55-65 and column 5 lines 10-31).

It would have been obvious for one of ordinary skill in the art to modify Hanes by executing a restoration of the submitted list of marked restorable objects via a remote procedure call as per the teachings of Rodriguez so as to allow remote access of archived or backup data so they can be retrieved or restored in order to remotely restore data over a network connection.

9.   In reference to claim 2, Hanes teaches the method according to claim 1, further including executing multiple restore submissions concurrently (column 5 lines 1-15 and column 6 lines 20-35).

10.   In reference to claim 3, Hanes teaches the method according to claim 1, further including initiating a restore session for the client. (column 8 lines 20-33).

11.   In reference to claim 4, Hanes teaches the method according to claim 3, further including creating a restore engine process for the retrieving, browsing, submitting and executing of restore objects (column 4 line 60 – column 5 line 30).

12.   In reference to claim 5, Hanes in view of Rodriguez teaches the method according to

claim 4, wherein the client communicates with the restore engine process via remote procedure

calls (column 4 lines 23-40 & 55-65, Rodriguez teaches remote restoration over a network).

13.   In reference to claim 6, Hanes in view of Rodriguez teaches the method according to

claim 4, wherein the restore engine process is created by a dispatch daemon on a backup storage

system server. (column 4 lines 23-41 and column 5 lines 10-30, Rodriguez teaches a restore

process on an archive server).

14.   In reference to claim 7, Hanes teaches the method according to claim 4, wherein the

restore engine process is terminated upon completion of the restore execution (column 2 line 37

– column 3 line 20, it is a well known feature in the art to terminate a process after its

completion).

15.   In reference to claim 8, Hanes in view of Rodriguez teaches the method according to

claim 4, further comprising creating a restore process for data to be restored over a network to a

client (Hanes; column 19 lines 5-30, column 20 lines 50-67 and column 24 lines 45-67).

       Hanes fails to explicitly teach wherein the restore engine process runs on a backup data

storage server and further including creating a work item restore process on the backup data

server, a server restore process for generating a stream of data to be restored, and a client restore

process for receiving the data stream . However, Rodriguez teaches a restore process on an

archive server, a data stream over a network for data retrieval and a client process for receiving

the data (Abstract, column 4 lines 23-41 and column 5 lines 10-30).

       It would have been obvious for one of ordinary skill in the art to modify Hanes by

making the restore engine process runs on a backup data storage server and further including

creating a work item restore process on the backup data server, a server restore process for

generating a stream of data to be restored, and a client restore process for receiving the data

stream as per the teachings of Rodriguez so that the restoration can occur remotely over a

network.

16.   In reference to claim 9, Hanes teaches the method according to claim 4, further including

detecting and identifying libraries that support associated catalogs of backed up data for

processing of backed up data by the restore engine process. (column 4 lines 23-67, column 6

lines 8-25 & 49-67)

17.   In reference to claim 10, Hanes teaches the method according to claim 9, further

including adding a new library supporting new methods of backing up data (column 4 lines 23-

67, column 6 lines 8-25 & 49-67 and column 7 lines 50-67).

18.   In reference to claim 11, Hanes teaches the method according to claim 9, further

including determining object types for backed up data supported by the libraries (column 4 lines

23-67, column 6 lines 8-25 & 49-67 and column 7 lines 5-25).

19.   In reference to claims 12,13 and 15, Hanes teaches a method of restoring backed up data

and a corresponding system, comprising:

        initiating a restore session for a first client through a graphical user interface associated

with the client (column 4 lines 64-67 and column 8 lines 14-40);

        establishing a connection between the graphical user interface and the restore engine

process (column 4 lines 64-67 and column 8 lines 14-40);

displaying a list of restorable objects for browsing by a user associated with the client via the graphical user interface under the control of the restore engine process (column 4 line 64 – column 5 line 15);

identifying restorable objects marked for restoration by the user under control of the restore engine process (column 2 lines 37-50 and column 5 lines 10-30);

storing a list of marked restorable objects submitted by the client to the restore engine process (column 2 lines 37-50 and column 5 lines 10-30); and

executing the restoration of the marked objects under control of the restore engine process independently of the browsing, marking and submitting of the restorable object such that multiple restore submissions can be made prior to restore execution (column 2 lines 37-50 and column 6 lines 5-20).

Hanes fails to explicitly teach the limitation of via a remote procedure call. However, Rodriguez teaches remote procedure calls wherein a client retrieves a list of archive objects from a server for multiple restore submissions of archive files (Abstract, column 3 lines 18-25, column 4 lines 24-40 & 55-65 and column 5 lines 10-31).

It would have been obvious for one of ordinary skill in the art to modify Hanes by executing a restoration of the submitted list of marked restorable objects via a remote procedure call as per the teachings of Rodriguez so as to allow remote access of archived or backup data so they can be retrieved or restored in order to remotely restore data over a network connection.

20.   In reference to claim 14, Hanes teaches the method according to claim 12, further including supporting a new backup data method by adding a library corresponding to the new backup data method. (column 6 lines 8-25 & 49-67 and column 7 lines 50-67)

21.   In reference to claims 17, Hanes teaches the system according to claim 15, wherein the

restore engine process processes library's upon restore initialization such that libraries can be

added to the system for supporting new backup methods. (column 6 lines 8-25 & 49-67 and

column 7 lines 50-67)

22.   In reference to claims 18, Hanes teaches the system according to claim 17, further

including a dispatch daemon for initiating the restore session (column 4 lines 23-41 and column

5 lines 10-30, Rodriguez teaches a restore process on an archive server).

23.   In reference to claims 19, Hanes teaches the system according to claim 15, further

including further restore engine processes corresponding to further restore sessions initiated by

additional clients (Rodriguez inherently teaches multiple clients restoring archive data, column 4

lines 25-55).

24.   In reference to claims 20, Hanes teaches the system according to claim 19, further

including additional restore triangles for executing multiple work item restores concurrently

(Summary and column 5 lines 10-40).

25.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

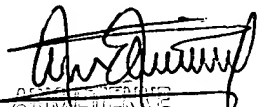will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
December 17, 2005